



United States Government
NATIONAL LABOR RELATIONS BOARD
REGION 7

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December 1, 2010

Lester Heltzer, Executive Secretary
National Labor Relations Board
1099 14th St., NW
Washington, DC 20005-3419

Re: Mercy Health Partners
Case 7-CA-52693

Dear Sir:

Enclosed is Counsel for the Acting General Counsel's Exceptions to the Administrative Law Judge's Decision As indicated on the last page of the document, copies have been served on all parties of record.

Very truly yours,

Joseph Canfield
Counsel for the Acting General Counsel

Enclosures

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D.C.

MERCY HEALTH PARTNERS, INC.

Respondent

and

Case GR-7-CA-52693

SEIU HEALTH CARE MICHIGAN

Charging Union

COUNSEL FOR THE ACTING GENERAL COUNSEL'S
EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION

1. Exception is taken to the ALJ's assertion that employee Anna Winters testified that in the meeting of November 23, 2009, Respondent's Director of Labor Relations, Robin Belcourt, told the employees that their pay and benefits would remain the same, that they would not lose any benefits. (p. 4, L 12-13)
2. Exception is taken to the ALJ analyzing Respondent's relocation of work decision under *Dubuque Packaging Corp.*(p. 5, L. 52-53) rather than *Torrington Industries*, 307 NLRB 809 (1992) and *Fibreboard Corp. v. NLRB* 379 U.S. 203 (1964).
3. Exception is taken to the ALJ concluding that in the relocation of work from Hackley Hospital to the Mercy Campus, "There was no subcontracting. Unlike *Fiberboard*, there was no replacement of employees in the existing unit with those of independent contractors." (p. 5, L. 53, p. 6, L.1-2)
4. Exception is taken to the ALJ recommending that the allegation that Respondent violated the Act by eliminating the unit work of the registration/admit assistants and

insurance verification clerks engaged in pre-registration duties at Hackley Hospital by assigning the work to nonunion positions at the Mercy Campus without notice to and bargaining with the Union be dismissed. (p.7, L. 25-29)

5. Exception is taken to the ALJ finding that the Union had no representation rights regarding the non-unit positions at Respondent's Mercy Campus. (p. 8, L. 44-45)

6. Exception is taken to the ALJ's conclusion that Respondent's actions in presenting the options to the pre-registration/admit employees and insurance verification clerks did not undercut the Union and did not constitute direct dealing. (p. 8, L. 48-51)

7. Exception is taken to the ALJ failing to find that Respondent presented the Union with a *fait accompli* when it informed the Union of its decision to eliminate the positions of the six pre-registration/admit employees and insurance verification clerks at Hackley Hospital and move their work to the Mercy Campus.

8. Counsel for the Acting General Counsel also contends Respondent violated Section 8(a)(5) of the Act in its elimination of unit work at Hackley Hospital, and also unilaterally changed the scope of the bargaining Unit.

Dated at Detroit, Michigan, this 1st day of December, 2010



Joseph Canfield
Counsel for the Acting General Counsel
National Labor Relations Board
Region Seven
Room 300, 477 Michigan Avenue
Detroit, Michigan 48226

CERTIFICATE OF SERVICE

I certify that on the 1st day of December, 2010, I electronically transmitted The Counsel for the Acting General Counsel's Exceptions to the Administrative Law Judge's Decision to the following parties of record:

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